

## **Adoption Leave and Pay**

**(For children with an expected date of placement on or after 5 April 2015)**

- 1.0 Rights to leave and pay are provided under the Employment Act 2002 for employees who become adoptive parents and whose children are placed with them on or after 6th April 2003, and are amended by the Work and Families Act 2006. Adoption Leave and Pay are available to employees who adopt as individuals or to one member of a couple<sup>1</sup> where the couple adopt jointly.
- 1.1 The partner of an individual who adopts, or the other member of a couple adopting jointly, will be eligible for Paternity Leave and Pay in accordance with the University's Guidelines.
- 1.2 The Children and Families Act 2015 introduces Shared Parental Leave where qualifying conditions are met, as outlined in the University's separate guidelines.
- 1.3 The Children and Families Act 2015 also extends the entitlement to adoption leave to surrogate parents with effect from 5 April 2015.

## **2.0 Eligibility**

- 2.1 To qualify for Adoption Leave, an employee must:
  - be newly matched<sup>2</sup> with a child for adoption by an approved adoption agency or surrogacy arrangement;
  - be employed in the week in which they are notified of being matched with a child for adoption;
  - adopt the child from within the UK (information will be made available regarding inter-country adoption and rights to leave and pay where applicable).

## **3.0 Length of Adoption Leave**

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<sup>1</sup> By 'member of a couple' we mean a person whether of a different sex or the same sex who is either the primary adopter or lives with the primary adopter in an enduring family relationship but is not an immediate relative.

<sup>2</sup> Adoption leave and pay is not available in circumstances where a child is not newly matched for Adoption or surrogacy arrangement e.g. when a step-parent is adopting a partner's child.

3.1 Adopters will be entitled to up to 39 weeks' paid *ordinary* Adoption Leave followed immediately by up to 13 weeks' unpaid *additional* Adoption Leave – a total of 52 weeks leave.

3.2 Leave can start:

- from the date of the child's placement, or
- from a fixed date which can be up to 14 days before the expected date of placement.

3.3 Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

3.4 If the child's placement ends during the adoption leave period, the adopter will be able to continue Adoption Leave for up to eight weeks after the end of the placement.

#### **4.0 Statutory Adoption Pay**

4.1 During ordinary Adoption Leave most employees will be entitled to Statutory Adoption Pay (SAP).

4.2 To receive Adoption Pay, the employees' average weekly earnings must be at least as much as the lower earnings limit for National Insurance contributions, which applies at the end of their qualifying week<sup>3</sup>.

4.3 Employees not qualifying for Adoption Pay may qualify for other benefits and are encouraged to contact the local Social Security/Jobcentre plus Office to find out more.

4.4 The **rate of statutory adoption pay (SAP)** is a weekly State benefit, the conditions and amount of which are determined statutorily by the Department for Works and Pensions.

#### **5.0 Occupational Adoption Pay**

5.1 In addition to the above statutory entitlement, an employee who has been continuously employed by the University for a minimum of 12 months by the expected date of the child's or children's placement, who thereby qualifies for occupational adoption benefits, will be entitled to Occupational Adoption Pay (OAP) comprising 8 weeks' full pay and 16 weeks' half pay.

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<sup>3</sup> The qualifying week is the week beginning with the Sunday that the adopter receives notification of being matched with the child and ends on the following Saturday.

- 5.2 SAP payments are offset against full pay, but normally paid in addition to half pay (except to the extent to which the combination of half pay and SAP would exceed the normal amount of contractual pay).
- 5.3 To receive Occupational Adoption Pay (OAP), the employee must have given notice of his/her intention to return to work for at least 3 months after adoption leave otherwise the OAP is repayable.
- 5.4 The total amount of adoption pay entitlement of those who qualify for both SAP and OAP (see Appendix B) is therefore as follows:
- 8 weeks' full pay (with the appropriate rates of SAP offset), and
  - 16 weeks' half pay (plus SAP at the appropriate rate), and
  - 15 week's SAP at the appropriate rate
- 5.5 If the employee does not return to work for at least 3 months at the end of the adoption leave period, the University reserves the right to reclaim the whole or part of the non-statutory element of the adoption pay received.

## **6.0 Notice of Intention to take Adoption Leave**

- 6.1 Adopters will be required to inform the Human Resources Division of their intention to take adoption leave within 7 days of being notified by their adoption or surrogacy agency that they have been matched with a child for adoption, unless this is not reasonably practical. The Human Resources Division will need to know:
- when the child is expected to be placed with them; and
  - when they want the adoption leave to start (this can be from the date of the child's placement or from a fixed date which can be up to 14 days before the expected date of placement).
- 6.2 Adopters will be able to change their mind about the date on which they want their leave to start providing they give 28 days' notice in advance, unless this is not reasonably practical.
- 6.3 Adopters will be required to supply a 'matching certificate' from their adoption or surrogacy agency as documentary evidence of their entitlement to SAP and/or Adoption Leave.
- 6.4 An employee who will have been continuously employed for a minimum period of 12 months before the expected date of the child's or children's placement, and who thereby qualifies for occupational adoption benefits, will be required at the same time to provide a written statement of his/her intent, where applicable, to return to work with the University at the end of his/her

adoption leave and of his/her wish therefore to receive the additional occupational benefits.

- 6.5 An employee entitled to receive OAP and SAP is also asked to confirm to the University, in writing, whether or not he/she wishes to receive both payments whilst on adoption leave or, as an alternative, to receive only SAP. Where an employee who qualifies for OAP elects to receive SAP only, he/she will be entitled to receive the full amount of OAP payable after returning to work for a three-month period. This is to ensure that employees are correctly paid during the Adoption Pay period. By confirming, in writing, the payment he/she wishes to receive, the individual is agreeing to repay sums received in respect of the OAP should he/she not be able to return to work for three months following the period of adoption leave.
- 6.6 The Human Resources Division will respond within 28 days, setting out the date on which the employee is expected to return to work if the full entitlement to Adoption Leave is taken. Adopters will have to give no further notice of their intention to return to work unless they wish to return before the end of the full leave period in which case eight weeks' notice of the intended return date must be given.

## **7.0 Reasonable Contact and Keeping in Touch during Adoption Leave**

- 7.1 The Work and Families Act 2006 introduces the right of employers and employees to maintain reasonable contact during adoption leave.
- 7.2 Under the terms of the Act, the University is entitled to make reasonable contact with the employee during the period of adoption leave. For example, a line manager may wish to contact the employee to discuss a planned return to work date, or to discuss any flexible working arrangements which would make the planned return to work easier, or an employee might wish to introduce his or her child to colleagues or meet up with them in the workplace. This will not count as work and therefore will not count towards the "keeping in touch" days described below.
- 7.3 An employee on adoption leave may agree with his or her line manager to work for up to 10 days during the adoption leave period without bringing the adoption leave period to an end or losing entitlement to payment during that week. These days are referred to as "keeping in touch days" (KIT days) and will be by agreement for such purposes as training or other activity intended to assist the employee in keeping in touch with the workplace, or to provide occasional cover where this is mutually agreed.
- 7.4 KIT days are optional and can only take place by agreement between both parties. The employer has no right to demand that any such KIT work is undertaken and the employee has no right to expect to undertake such work

7.5 KIT days will be for an agreed and specific purpose related to work. Payment, only where applicable, will be calculated on the basis of the employee's hourly rate of pay for the specific number of hours worked, if this exceeds the daily rate of adoption pay.

7.6 Employees undertaking paid work at any time when in receipt of SAP, other than through the KIT days described above, will lose that week's SAP.

## **8.0 Returning to work after Adoption Leave**

8.1 When an employee returns to work after Adoption Leave the employee will be entitled to return to the same job on the same terms and conditions of employment as if the employee had not been absent, unless a redundancy situation has arisen. The employee will be entitled to benefit from any general improvements to the rate of pay or other terms and conditions, which may have been introduced for their grade or class of work while the employee was away.

## **9.0 Sickness at the end of Adoption Leave**

9.1 If the employee is unable to return to work at the end of their Adoption Leave because of sickness the contractual arrangements for sickness absence in the job will apply.

## **10.0 Pensions contributions during Adoption Leave**

10.1 If employees are members of the Universities Superannuation Scheme (USS) or the UEA Staff Superannuation Scheme (UEASSS) they will have the option of maintaining their contributions to the relevant scheme during a period of unpaid Adoption Leave.

10.2 Members of pension schemes should please discuss the detailed arrangements in respect of their pension contributions during adoption leave with the relevant Pensions Assistant in the Pension Office on extension 2676 or extension 1081 to discuss the options available to them as soon as possible before they begin their adoption leave.

10.3 Where SAP applies: -

- The employer's contributions for pensions purposes will be worked out as if the employee is working normally and receiving the normal remuneration payable for doing so.
- The employee's contributions for pension purposes will be based on the amount of Statutory Adoption Pay which is actually being paid to the employee.

10.4 For employees on adoption leave who are members of either the Universities Superannuation Scheme (USS) or the University of East Anglia Staff Superannuation Scheme (UEASSS), attention is drawn to the following contribution rate arrangements:

- during any period of full adoption pay an employee will be required to maintain the employee's contributions at the normal rate; the University will also maintain its contributions based on full pay;
- during the half pay period of adoption leave, the employee's own pension contributions will be based on the pay he/she actually receives (including SAP);
- during any period of unpaid adoption leave the employee will have the option of contributing to the scheme, in which case his/her contributions will be based on his/her normal contractual salary;
- in respect of the half pay period, and in respect of any unpaid period (subject to his/her choosing to continue to pay employee's contributions), the University will continue to pay employer's contributions to the pension scheme on the basis of the employee's normal contractual pay.

#### **11.0 Accrual of Annual Leave during Adoption Leave**

11.1 Annual leave continues to accrue during adoption leave, at a rate proportional to the employee's usual annual leave entitlement.

11.2 Normal carry-over arrangements from one leave year to the next apply, i.e., not more than five days can be carried over to the next leave year (pro-rata for part-time staff), regardless of the reason why this has not been taken, with the expressed permission of the line manager. Therefore, if this is likely to disadvantage the employee, he or she should arrange to take annual leave either immediately before the start of maternity leave or immediately prior to a return to work.

11.3 All annual leave arrangements must be authorised by the line manager before adoption leave commences.

#### **12.0 Accrual of Statutory and Customary Leave during Adoption Leave**

12.1 Entitlement to statutory and customary leave will also accrue during adoption leave (pro-rata for part-time staff in accordance with normal leave guidelines).

12.2 Time accrued for statutory and customary days cannot be taken in advance of adoption leave. Employees will be required to take any time accrued in

relation to statutory and customary leave prior to a return to work following adoption leave.

### **13.0 General points to note**

- 13.1 Employees continue to be employed during the period of their Adoption Leave.
- 13.2 The Adoption Leave period counts towards the period of continuous employment for the purposes of their entitlement to statutory employment rights and for assessing pension rights and other personal length of service payments such as pay increments under the contract of employment.
- 13.3 The contract of employment continues throughout Adoption Leave, unless either the employer or the employee expressly ends it or it expires.
- 13.4 The employee is not entitled to receive remuneration (i.e. wages and salary) during their Adoption Leave but they have the right to benefit from all other terms and conditions of employment, which would have applied to them if they had been at work instead of on Adoption Leave.
- 13.5 A new father, or the partner or spouse of an adopter, who wishes to take time off work to care for a newly born child or support the adopter, is entitled to up to 2 weeks' **Ordinary Paternity Leave and Pay** if they have been continuously employed for at least 26 weeks before the qualifying week. Details of the scheme, together with the appropriate forms, are available from the Human Resources Division web pages.
- 13.6 **Shared Parental Leave and Pay** gives eligible employees the right to share the remaining period of statutory leave, if the child's adopter returns to work without exercising his or her full entitlement to adoption leave. Details of the scheme, together with the appropriate forms, are available from the Human Resources Office web pages.

### **14.0 Additional information for employees in research grant funded posts**

Some funding bodies are prepared to suspend or extend grants to allow for maternity, adoption and paternity leave. The Principal Investigator should check the terms and conditions of the relevant funding bodies. Further advice may be sought from Research and Enterprise Services <https://intranet.uea.ac.uk/ren/contact-us>

For information, the Research Council (RCUK) Briefing on Maternity, Paternity and Adoption Leave and Pay is available from <http://www.rcuk.ac.uk/RCUK-prod/assets/documents/skills/RCUKMaternityBriefing.pdf>

This comprehensive briefing provides information from the Terms and Conditions of Grants and Training Grants; and the RCUK Training Grant Guide and Research Council Funding Guides.

It is intended primarily for Research Council funded researchers to assist their discussions with their supervisors and line managers.

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Human Resources Division

## **ADOPTION LEAVE PLAN**

You do not have to fill in this form to benefit from the right to adoption leave or Statutory Adoption Pay (SAP) but you do have to give your employer most of the information it contains. You may wish to use this plan as a straightforward way of making sure you give your employer all the necessary information so that you can take adoption leave and receive SAP if you qualify for it. This plan covers your statutory rights to adoption leave and pay. Your contract of employment could give you better rights and you should check that too. You and your employer may wish to use this form as the basis for developing a form, which fits your own circumstances.

You may find it helpful if you and your employer fill in the plan together. You should both keep copies.

### ***Telling your employer when you want to take adoption leave***

You must have told your employer by the end of the notification period when you want to start your adoption leave and begin to receive SAP. The notification period is from the date you receive notification of your match with a child and for the following seven days. This does not have to be in writing unless your employer asks for it to be. If you are using this form you need to give it to your employer at the latest during the notification period.

If you wish to change the date on which you will start your adoption leave you must give your employer eight weeks' notice of the new date unless this is not reasonably practicable.

The recommended notification time for advising your employer of your intention to take adoption leave is when you are approved for adopting. This will give your employer plenty of time to plan for your future leave. At this time it is probably too early for you to be able to complete this plan and a more appropriate time maybe when you receive the notification of a match with a child.

### **Adoption pay**

The plan will help you find out if you will get SAP from your employer, but your employer will need to work out if you qualify for SAP and how much you will receive. (If you aren't happy with your employer's decision you can ask for it to be explained to you and you may be able to appeal). If you do not qualify for SAP, the Human Resources Office will issue you with form SAP1. You may be able to claim other benefits from the Social Security Office / Jobcentre Plus and you should talk to your adoption agency about this.

You can get a claim form from the Social Security Office / Jobcentre Plus.

## **How to use the plan**

The plan is in three parts. You should complete Part A first. This will help you decide if you are entitled to adoption leave and pay. It will also tell you which sections of the rest of the form you need to complete. You will find it helpful to have a calendar or diary handy when you are filling out the form.

You can use Part C if you decide to return to work before you have taken your full adoption leave entitlement.

Notes to help you complete the form are given in the right hand column.

PART A - PLANNING ADOPTION LEAVE

<p><b>TO THE EMPLOYER</b>          I am giving you this form to let you know that I intend to take adoption leave and to notify you of when I want to start my adoption leave and begin receiving Statutory Adoption Pay (SAP) if I am eligible for it.</p>	
<p><i>Personal Details</i></p> <p>1 Name .....</p> <p>Employer's name .....</p> <p>.....</p>	<p>Manager's name .....</p> <p>Staff or payroll number .....</p> <p>National Insurance number .....</p>
<p><i>When the child is expected</i></p> <p>2 The expected date the child is due to be placed: .....</p> <p>(expected date of placement)</p> <p>3 Documentary evidence confirming this:</p> <p>a) Has been given to you already <input type="checkbox"/> tick box</p> <p>b) Is enclosed with this form <input type="checkbox"/> tick box</p> <p>c) Will be given to you shortly. <input type="checkbox"/> tick box</p> <p>Or</p> <p>4 You have not requested documentary evidence.</p>	<p><b>Notes</b></p> <p><u>Expected date of child placement</u>          2 The expected date of child placement is the date, on which it is expected the child will be placed with you.</p> <p><u>Documentary Evidence (which may be the matching certificate)</u>          3 If you qualify for SAP you must give your employer documentary evidence giving the expected date of child placement at least 28 days before you wish to start your leave &amp; pay. The documentary evidence, which you will receive, can be used. (Questions 5-7 will help you decide if you qualify for SAP.)</p> <p>4 If you do not qualify for SAP you do not have to give your employer documentary evidence unless your employer asks for it.</p>
<p><u>Qualifying for adoption leave &amp; pay</u></p> <p>5. The qualifying week (this is the week in which you are notified of your match</p>	<p><u>5 Qualifying week</u>          The qualifying week is the week in which you receive notification of being matched with a child and you will also receive your documentary evidence.</p>

<p>with a child and runs Sunday to Saturday) is the week beginning</p> <p>Sunday .....</p> <p>6. By the end of the qualifying week I will have worked for you continuously for at least 26 weeks</p> <p>Yes <input type="checkbox"/> tick box [go to question 7]</p> <p>or</p> <p>No <input type="checkbox"/> tick box</p> <p><i>If you answer no then you will not be entitled to adoption leave or pay.</i></p>	<p><u>6 Continuous employment</u></p> <p>Your length of employment usually runs from the first day you started work with your current employer to the present day. Some weeks when you don't work may still count towards SAP, for example if you were absent due to sickness or injury.</p>
<p>7 In the eight weeks up to and including the qualifying week (see question 5) my average earnings were at least £102 per week</p> <p>Yes <input type="checkbox"/> (tick box)</p> <p>I therefore probably qualify for SAP but you will confirm whether I qualify or not;</p> <p>or</p> <p>No <input type="checkbox"/> (tick box)</p> <p>I therefore probably do not qualify for SAP but you will confirm whether I qualify or not.</p>	<p><u>Qualifying for SAP</u></p> <p>This section will help you decide whether you qualify for SAP but your employer will tell you if you do actually qualify. If you do not qualify for SAP you may be able to claim other benefits. If you do not agree with your employer's decision you may be able to appeal. In order to qualify for SAP you must have earned at least as much as the lower earnings limit for paying National Insurance contributions.</p> <p><u>7 Average earnings</u></p> <p>The lower earnings limit is the point at which you start to be treated as if you have paid NI contributions. The rate for the year from April 2006 is £84 per week.</p> <p>Your employer will normally use the 8 weeks ending with the qualifying week to work out your average earnings. You can ask your employer to show you how they have worked out your average earnings.</p> <p>If you don't qualify for SAP you may be able to claim other benefits.</p>

**PART B - Ordinary and Additional Adoption Leave**

Complete this section if you answered Yes to Question 6 in Part A.

If you are employed, you will qualify for Ordinary Adoption Leave and Additional Adoption Leave. Ordinary Adoption Leave lasts for up to 39 weeks. Additional Adoption Leave runs from the end of Ordinary Adoption leave for up to 13 weeks.

<p><i>Starting Adoption Leave</i></p> <p>8. I would like to start my adoption leave on:</p> <p>.....(date)</p>	<p>NOTES</p> <p><u>8 Start date</u> It is your decision when you start your adoption leave, but you cannot start it earlier than 14 days before the expected date of placement of your child. You must notify your employer of your intended start date during the notification period. If you wish to change this date you must give your employer at least 28 days' notice of when you want to start your adoption leave unless this is not reasonably practicable.</p> <p><u>Effect on SAP</u> You can start your adoption leave and pay on any day of the week or if you worked for any part of that day it will start on the following day. For example if you start your adoption leave on a Tuesday and did not work on that day, your SAP will start from that Tuesday. Your weeks will then run from Tuesdays to Mondays. You may wish to bear in mind that you will not get SAP for any week in which you do any work for your employer. The same applies when you go back to work - if you return during the week you will not receive any pay for that week.</p>
<p><i>Receiving SAP</i> <i>(Complete this if you answered yes to question</i></p>	<p><u>9 Adoption Pay Period</u> The Adoption Pay Period is the 39 weeks when you are entitled to</p>

<p><i>7 in Part A)</i></p> <p>9. If I qualify for SAP, my Adoption Pay Period will start on:</p> <p>..... (date)</p>	<p>receive SAP. It starts on the day you start your adoption leave unless you worked for any part of that day in which case it will start on the next day.</p> <p><u>Payment of SAP</u> The actual payment will be made in the same way as your wages are usually paid by your employer though, so you will be paid on the day you are usually paid on.</p>
<p><i>Returning after adoption leave</i></p> <p>10. My additional adoption leave will run from the end of my ordinary adoption leave, giving me up to 52 weeks leave.</p> <p>My additional adoption leave will finish on:</p> <p>.....(date)</p> <p>I am due back to work on:</p> <p>.....(date)</p> <p>I understand that if I want to return to work before this date, I must give you eight weeks' notice of the date on which I want to return.</p> <p>*Your employer will write to you to confirm the date that you are due back to work.</p>	<p><u>10 Letting your employer know when you are going back to work</u> You do not have to tell your employer when you are due back to work; you are expected back at the end of your additional adoption leave.</p> <p><u>End of your Additional adoption leave (AAL)</u> This is the end of the 39<sup>th</sup> week from when you start your additional adoption leave.</p> <p><b>Date due back to work</b> You are expected back to work on the next working day after your additional adoption leave finishes.</p> <p><u>Telling your employer you want to return early</u> If you want to return to work before the end of your ordinary or additional adoption leave period you must give your employer at least eight weeks' notice before your intended return date. You can use Part C of this form.</p> <p><b>Unable to return to work</b> If you cannot return, for example because you are sick, the normal rules for your job apply.</p>

	<p><u>Deciding not to return to work</u> If you decide, whether now or later, that you do not intend to return to work with your employer you must give the notice period required by your contract of employment. If there is no notice period specified in your contract you must give your employer at least one week's notice.</p>
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You have now completed all the parts of the form you can before the child is placed with you. You should sign the form and give the completed part to your employer. Don't forget to keep a copy of it for yourself.

Signed \_\_\_\_\_

Date \_\_\_\_\_

**PART C**

**Returning to work early**

You will be expected back at the end of your full adoption leave entitlement.

If you want to return earlier you must give your employer at least eight weeks' notice. This does not have to be in writing, but you may like to use this part of the form to let your employer know.

If you do not give eight weeks' notice your employer is entitled to postpone your return until the eight weeks' notice has been complied with, although it cannot be postponed to a date later than the end of your adoption leave period.

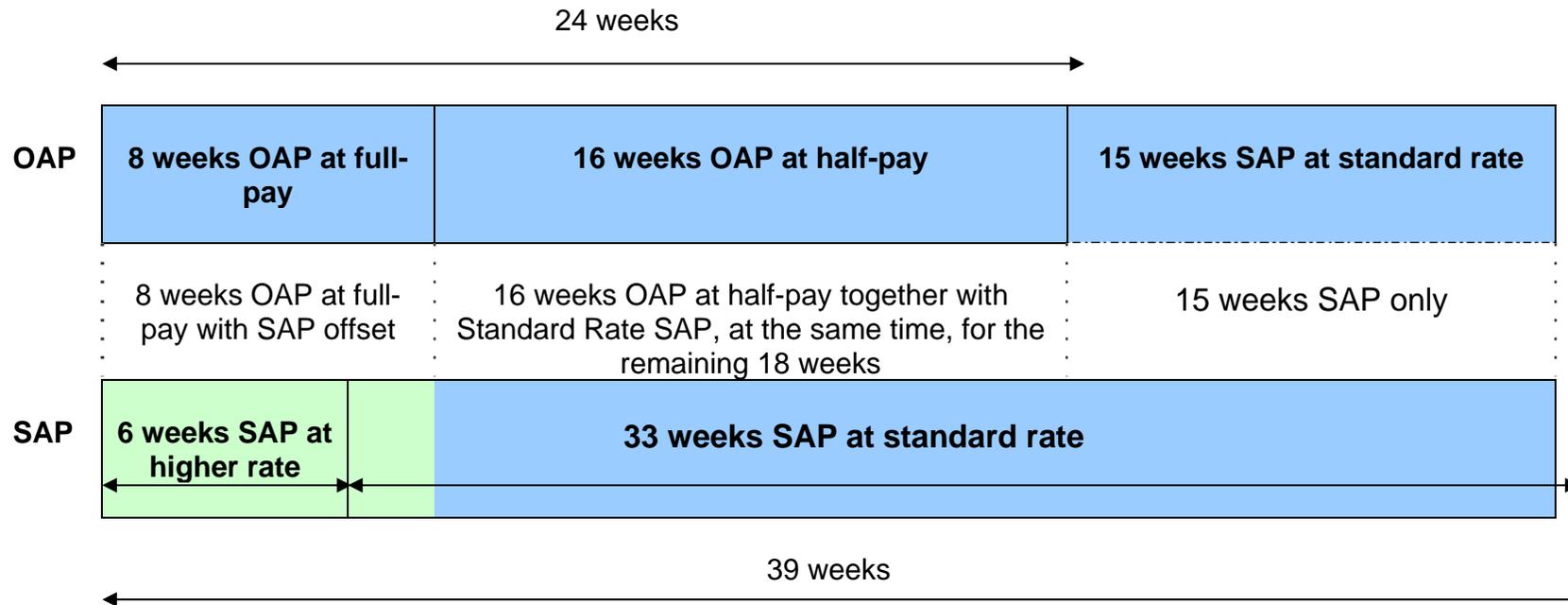
<p><i>Planning to return to work early</i></p> <p>11. I intend to return to work before the end of my adoption leave. I intend to return to work on .....</p> <p>.....(date)</p>	<p><u>Complete this section only if you want to return to work early.</u></p> <p><u>Effect on SAP</u></p> <p>If you return to work at any time before the end of your Adoption Pay Period, for any week that you worked you will not be entitled to SAP.</p> <p><u>11 Telling your employer you want to return early</u></p> <p>If you want to return to work before the end of your full adoption leave period, you must give your employer at least eight weeks' notice before your intended return date.</p>
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You should sign the form now and send it to your employer. Don't forget to keep a copy of it for yourself.

Signed \_\_\_\_\_

Date \_\_\_\_\_

University of East Anglia Occupational (OAP) and Statutory Adoption Pay (SAP) Schemes



- This pay is actually received by the employee during these periods
- This pay is not actually received by the employee during this period. An employee cannot receive more than their normal monthly salary during the period of adoption leave, therefore SAP is not actually received (i.e. it is offset) for the first 8 weeks.